

REMARKS

Claims 1-9, 19, 20, 22-24, 39, 40, and 42-54 are now pending in the application. Claims 25-27, 31, 32, and 35 are canceled by this amendment. New Claims 54 - 63 are added by this amendment. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

If each of the claims are not found to be in condition for allowance, Applicants request that the Examiner contact Applicants' representative prior to mailing any further Office Actions.

APPLICANT INITIATED INTERVIEW SUMMARY

Applicants thank the Examiner for the interview granted with Applicants' representatives on February 26, 2008. During the interview, the pending claims were discussed with the Examiner in light of the art cited in the rejections. Applicants' representative believes that an agreement was reached that an eyelet as claimed in the presently pending claims overcomes the rejections in the outstanding office action.

REJECTION UNDER 35 U.S.C. § 101

Claim 53 stands rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter.

Claim 53 has been amended to recite, "wherein the anatomical engaging section defines an axis and the single wall is formed to intersect the axis." Applicants, therefore, respectfully request that the Examiner withdraw the rejection to Claim 53 at least because Claim 53 is directed to statutory subject matter.

REJECTIONS UNDER 35 U.S.C. § 102 AND 103

Claims 1-5, 9, 39 and 40 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Huebner (U.S. Pat. No. 5,868,789). Claims 1-9, 19, 20, 22-24, 39, 40, 42, 44, 45 and 47-53 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Goble et al. (U.S. Pat. No. 5,851,219). Claims 6, 7, 42 and 43 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Huebner in view of Martello (U.S. Pat. No. 6,168,598B1). Claim 8 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Huebner in view of Martello as applied to the claims above, and further in view of Borzone et al. (U.S. Pat. No. 5,814,070). Claims 46 and 52 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Huebner in view of Martello as applied to the claims above, and further in view of Goble et al. These rejections are respectfully traversed.

Huebner is directed to a suture anchor and suture apparatus that is inserted by an instrument. The anchor is inserted with a suture interconnected to the anchor. The suture is held within an eyelet 50 that has a beveled edge to reduce wear on the suture. Nevertheless, the suture 72 can be substantially exposed to bone, such as an outer cortex of the bone 114. See Huebner, Fig. 6.

Goble et al. is similarly directed to an anchor that includes a bore 36 formed through two diametrically opposing flat sides. A pair of channels 38 extend proximally from the bore and communicate with the two ends of the bore. See Goble et al., col. 5, lines 30-33. As illustrated in Goble et al., the suture is exposed through the channels 38 so that they also contact cortex of a bone. See Goble et al., Figs. 5 and 8.

Martello is directed to a soft tissue anchor that has an aperture 36 and includes a lower surface 20 that is fixed above a bone 14. Raising the lower aperture 32 allows access to the lower aperture 32 when the anchor is installed. See Martello, col. 4, lines 10-12 and 39-38 and Figs. 1 and 2.

Finally, Borzone et al. is directed to a suture anchor that has a cradle 20. See Borzone et al., col. 3, line 20 and Fig. 4. Borzone et al. also discloses a further embodiment that includes a slot 38 that eliminates the need to **thread** suture material. The suture material is simply placed in the slot. See Borzone et al., col. 4, lines 14-16 and Fig. 6.

Initially, Applicants respectfully submit that at least none of Huebner, Goble et al., or Borzone et al. disclose an enclosed eyelet, an eyelet to maintain a suture within a perimeter, or operable to completely surround a suture. Therefore, there is a completely missing element in these references that is claimed in the presently pending claims.

Applicants respectfully submit that the combination of Huebner and Martello is improper. As discussed above, Martello describes a system to allow access to a lower surface of a structure so that a suture can be threaded once the anchor is in place. Contrary to this, Huebner discloses a suture pre-threaded on an anchor that is then inserted into bone, as is clearly illustrated in Figs. 4 and 5. Moreover, the anchor of Huebner is inserted so that the eyelet 50 of the anchor is below a surface of the bone. This substantially eliminates access to the eyelet and appears to make it impossible to thread the eyelet once inserted. Therefore, Martello appears to be contrary to Huebner and Applicants respectfully submit that Martello actually teaches away from a

combination with Huebner at least for this reason. Applicants submit that a combination of Martello with Goble et al., either alone or in combination with other art, is also contrary to the teachings of at least Martello for the same reasons.

Further, Borzone et al., including the slot 38, discloses an anchor that disparages **threading**. See Borzone et al., col. 4, line 14. Therefore, the combination of Borzone et al., including the slot 38 with any of Martello, Huebner, and Goble et al. (all of which appear to require threading) appears to be improper based on at least the disparagement by Borzone et al. of threading. Each of Goble et al., Martello, and Huebner require threading either before or after positioning of the anchor.

In light of the above, Applicants respectfully submit that the combination of the art cited in the outstanding office action appears to be improper and that at least Claims 6-8, 42, 43, 46, and 52 are not anticipated or fairly rendered obvious by the cited art.

Applicants further submit that each of the references do not anticipate or fairly render obvious each of the presently pending claims. As discussed with the Examiner during the interview, as summarized above, at least an eyelet as recited in each of Claims 1, 19, and 47 is not anticipated or fairly rendered obvious by the art of the rejections. Therefore, at least for this reason, the presently pending claims are in condition for allowance.

NEW CLAIMS

Each of the new claims is within the scope of the elected invention and fully supported by the application as filed.

At least Figs. 1-15 and 16A-16C and the accompanying written description clearly

illustrate and disclose a bore defined by a wall. Also disclosed is a wall transverse to an engaging axis where the wall also defines an eyelet. In addition, Applicants respectfully submit that each of Claims 54-61 include subject matter discussed with the Examiner during the interview of February 26, 2008 that is allowable in light of the art cited in the rejections.

New Claims 62 and 63 are also supported by the application as filed at least in Figs. 1-15 and 16A-16C and the accompanying written description. Moreover, Applicants submit that at least "a second main portion, including: a suture engaging portion to hold a suture . . . a first eyelet and a second eyelet each defined as a completely surrounded opening in said first surface; [and] a passage interconnecting said first eyelet and said second eyelet" is not anticipated or fairly rendered obvious by the art cited in the rejections.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

Dated: Feb. 28, 2008

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